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Number of pages (including this page): 4

Re: United States Patent Application No. 10/647,505
Inventor: Anthony Sgroi Jr. *et al.*
Filed: August 26, 2003
Entitled: MULTI-MODE LIGHTER
Confirmation No. 2713
Art Unit: 3749
Attorney Docket No. 000618-1170-999

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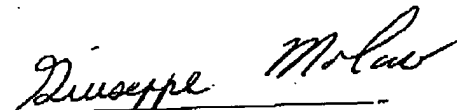


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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the attached "RESPONSE TO SPECIES REQUIREMENT" for Non-provisional application Ser. No. 10/647,505 entitled "MULTI-MODE LIGHTER" is being filed with the United States Patent and Trademark Office by facsimile transmission on July 22, 2004 to facsimile telephone number 703-872-9306.


Giuseppe Molaro
(Reg. No. 52,039)

July 22, 2004
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICIAL

In re application of:	Anthony Sgroi Jr. <i>et al.</i>	Confirmation No.	2713
Serial No.	10/647,505	Art Unit.	3749
Filed:	August 26, 2003	Examiner:	Basichas, Alfred
For:	MULTI-MODE LIGHTER	Attorney Docket:	000618-1170-999

RESPONSE TO SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the outstanding Office Action dated June 22, 2004, in which the Examiner imposed a species requirement, please consider the following remarks.

The Examiner has indicated that the present application contains claims directed to more than one species and thus requires an election under 35 U.S.C. 121 of one of the following species of the claimed invention:

- a. Species I, Figs. 1-3, 4-15
- b. Species II, Fig. 3A
- c. Species III, Figs. 16, 16A
- d. Species IV, Figs. 17, 17A
- e. Species V, Figs. 18, 18A
- f. Species VI, Figs. 19-20A
- g. Species VII, Figs. 21, 21A

In response to the species election, Applicant provisionally elects the invention of Species VI - as depicted in Figs. 19-20A - drawn to a multi-mode lighter - for prosecution in the present application. Applicants reserve the right to file divisional applications to protect the inventions of Species I-V and VII, if they so choose. Applicants provisionally elect Species VI with the understanding that the claims shall be restricted to this species only if no claim finally held to be allowable is held generic. Applicant believes that pending claims 1-22, 25-49, and 52-75 are readable on the elected Species.

Applicants respectfully traverse the Species Requirement at least with regards to Species VII - as depicted in Figs. 21 and 21A. Applicants submit that to search and examine the subject matter of Species VII along with elected Species VI in the present application would not be a serious burden on the Examiner. The M.P.E.P. § 803 states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

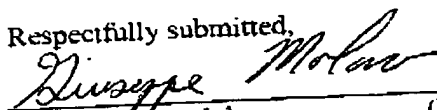
Applicants contend that a search and examination of at least Species VII in connection with Species VI could be made without serious burden and thus the claims of Species VII should be searched and examined in the present application. Moreover, Applicants believe that the classifications of the invention in at least Species VII is the same as that for Species VI, and the field of search will be the same, thus Applicants believe that dividing among these species is especially improper. See MPEP 808.02. As such, Applicants believe that Species VII should be prosecuted in the present application, and should be considered together with Species VI. Accordingly, Applicants respectfully request that at least Species VII should be examined in the present application in connection with the elected Species VI.

In the event that the examiner withdraws the species restriction at least with regards to Species VII, Applicants believe that pending claims 1-75 are readable on Species VII in conjunction with the elected Species VI and should be prosecuted in the present application.

No fee is believed due for this submission. Should any fees be required, however, please charge such fees to Jones Day Deposit Account No. 501013.

Date: July 22, 2004

Respectfully submitted,


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